

## ARTICLE VII. MINIMUM HOUSING CODE\*

**\*Editor's note:** Pursuant to Ord. No. 8-93, § 1, adopted Dec. 20, 1993, provisions pertaining to a minimum housing code have been codified as Art. VII, substantive sections thereof being designated by the editor as §§ 7-111--7-116.

### Sec. 7-111. Scope.

This code shall be construed to secure the beneficial interests and purposes thereof (which are public safety, health, and general welfare) through structural strength, sanitation, adequate light and ventilation, and safety to the life and property from fire and other hazards incident to the construction, alteration, repair, demolition and removal, use and occupancy of all dwellings or premises used as such.

This code shall apply to all existing housing and to all housing hereafter constructed within the unincorporated areas of Forsyth County and to those municipalities within the county who choose to adopt the code. Portable, mobile or demountable buildings and structures when used or intended to be used for housing within the county shall be subject to this code. This article establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment, or facilities except as provided in this article.

(Ord. No. 8-93, § 1, 12-20-93)

### Sec. 7-112. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

*Alter* or *alteration* shall mean any change or modification in construction or occupancy.

*Approved* shall mean approved by the housing administrator.

*Approved sewage disposal system* shall mean a sewage disposal system approved by the public health department or served by a public sewer system.

*Approved water supply* shall mean a water supply approved by the public health department or a public sewer system.

*Basement* shall mean a portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

*Building* shall mean any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. The term building shall be construed as if followed by the words "or part thereof."

*Cellar* shall mean a portion of a building located partly or entirely underground having an inadequate access to light and air from windows located partly or wholly below level of the adjoining ground.

*Deteriorated* shall mean that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all the minimum standards established by this article, at a cost not in excess of sixty-five (65) percent of its value, as determined by findings of the housing administrator.

*Dilapidated* shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered, or improved to comply with all the minimum standards established by this article at a cost not in excess of sixty-five (65) percent of its value, as determined by findings of the housing administrator.

*Dwelling* shall mean any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose.

*Dwelling unit* shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating whether or not such unit is occupied or vacant.

*Exit* shall mean a clear and unobstructed route of departure from the interior of a building or structure to the exterior at street or grade level.

*Extermination* shall mean the control and elimination of insects, rodents, or other pests by eliminating their harboring places; by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping or by other recognized and legal pest elimination methods approved by the housing administrator.

*Family* shall mean one (1) or more persons living together and having common living, sleeping, cooking, and eating facilities.

*Floor space* shall mean the total square feet of space of all habitable rooms.

*Garbage* shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

*Habitable room* shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, but excluding bathrooms, water closet compartments, laundries, heater rooms, foyers and/or communicating corridors, closets and storage spaces.

*Housing administrator and designated persons* shall mean a housing administrator for Forsyth County with the responsibility of enforcing this article in the unincorporated areas of Forsyth County as well as those municipalities in which the ordinances of Forsyth County apply.

*May* as used in this code shall mean permissible.

*Multiple dwelling* shall mean any building or portion thereof, which is designed, built, rented, leased, subleased or otherwise contracted, let or hired out to be occupied, or which is occupied as the home or residence of two (2) or more families living independently of each other and doing their own cooking in their respective residences and shall include but not be limited to flats and apartments.

*Occupant* shall mean any person living, sleeping, cooking and eating in, or having actual possession of a dwelling or dwelling unit.

*Operator* shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units are rented, leased, subleased, or otherwise contracted.

*Owner* shall mean the holder(s) of the title in fee simple, and every mortgagee of record.

*Parties in interest* shall mean all individuals, associations, and corporations, who have interests of record in a dwelling and any who are in possession thereof.

*Person* shall mean and include any individual, firm, corporation, association or partnership or any other legal entity.

*Plumbing* shall mean the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and public or private water supply systems to their connection with any point of public disposal.

*Premises* shall mean a lot, plot, or parcel of land including the buildings, dwellings and structures within the definitions as defined herein.

*Removal* shall mean the demolition and approved disposal of the entire building. The premises shall be free and clear of any debris; and in a manner as not to leave any holes or pockets, which may retain water.

*Required* as used in this code shall mean mandatory.

*Residential occupancy* shall mean buildings in which families or households live or in which sleeping accommodations are provided. Such buildings shall include, but not be limited to the following: dwellings, multiple dwellings, and lodging houses, and all dormitories.

*Rubbish* shall mean combustible and noncombustible waste material except garbage, and the term shall include but not be limited to ashes, paper, rags, cartons, wooden boxes, rubber, leathers, tin cans, metals, mineral matter, glass, crockery, and dust.

*Shall* as used in this code shall mean mandatory.

*Should*, as used in this code shall mean recommended.

*Stairway* shall mean one (1) or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

*Story* shall mean that part of a building comprised between a floor and the floor or roof above.

*Structure* shall mean that which is built or constructed, a building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term structure shall be construed as if followed by the words "or part thereof."

*Substandard* shall mean any condition existing in any housing, building, or structure which does not meet the standards of fitness of this code.

*Supplied* shall mean paid for, furnished, provided by, or under control of the owner or operator.

*Unfit for human habitation* is defined by section 7-114.

*Ventilation* shall mean the process of supplying and removing air by natural or mechanical means to or from any dwelling unit. Mechanical ventilation shall mean ventilation by power driven devices. Natural ventilation shall mean ventilation by opening to outer air through windows, skylights, doors, louvers or stacks with or without wind-driven devices.

*Meaning of certain words.* When the words "dwelling," "dwelling unit," "multiple" or "premises" are used in this code, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. No. 8-93, § 1, 12-20-93)

### **Sec. 7-113. Minimum standards.**

No person shall occupy as owner-occupant or let to another person for residential occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking, or eating, therein, which does not comply with the following requirements:

**(a) For base equipment facilities:**

- (1) Sanitary facilities required. Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet, all in good working condition and properly connected to an approved water supply and sewage disposal system.
- (2) Location of sanitary facilities. All required sanitary facilities shall be located within the dwelling unit and be accessible to the occupants. The water closet, tub or shower, shall be located in a room affording privacy to the user.
- (3) Hot and cold water supply. Every dwelling unit shall have connected to the kitchen sink, lavatory, and tub or shower an adequate supply of both cold water and hot water as determined by the housing administrator. All water shall be supplied through an approved pipe distribution system connected to an approved water supply.
- (4) Heating facilities.
  - a. Every dwelling unit shall have heating facilities which shall be installed in accordance with the appropriate building, gas, or electrical code and shall be capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit therein to a temperature of at least seventy (70) degrees Fahrenheit at a distance of three (3) feet above floor when temperature is twenty (20) degrees Fahrenheit outside.
  - b. Where a central heating system is not provided, each dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, or vents, whereby heating appliances may be connected so as to furnish a minimum temperature of seventy (70) degrees Fahrenheit at a distance of three (3) feet above floor when temperature is twenty (20) degrees Fahrenheit outside.

- (5) Cooking equipment. All cooking equipment shall be installed in accordance with the appropriate building, gas, or electrical code and shall be maintained in a safe and good working condition.
- (6) Cabinet and kitchen storage. Each dwelling unit should contain a minimum of four (4) square feet counter top, twenty-five (25) square feet of storage and five (5) square feet of drawer space.
- (7) Smoke detector systems. Each occupied dwelling unit shall be required to contain at least one (1) approved operable smoke detector installed outside each sleeping area on, or near the ceiling. The detector shall be electrically or battery operated and provide an audible alarm. The term operable is defined as being when a working battery is installed in the detector or the electricity is on. The occupant head of household is responsible for maintaining a lawful source of electricity.
- (8) Fire protection. No person shall occupy as owner-occupant or allow another to occupy, any building or structure which does not comply with the applicable provisions of the fire prevention code of the applicable governing body.

**(b) *Minimum requirements for natural light and ventilation:***

- (1) Habitable rooms.
  - a. Every habitable room shall have at least one (1) window or skylight facing directly to the outside, with a minimum total window/skylight area of eight (8) square feet for every habitable room.
  - b. The area of the window/skylight that can be opened in every habitable room shall be equal to at least forty-five (45) percent of the required window area, or the room shall have other mechanical ventilation.
- (2) Bathroom. Every bathroom should comply with the ventilation requirements for habitable rooms.

**(c) *Minimum requirements for electrical systems:***

- (1) All fixtures, receptacles, equipment, and wiring shall be maintained in a state of good repair, safe, capable of being used and installed and connected to the source of electrical power in accordance with the electrical code of the State of North Carolina, for existing dwellings.
- (2) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to carry the total load required in accordance with the electrical code of the State of North Carolina, for existing dwellings.
- (3) Electric lights and outlets required. Every dwelling shall be adequately and safety wired for electric lights and convenient receptacles. Every habitable room shall have provision for adequate lighting and other necessary electrical service, with kitchen, bath, hall and exits having ceiling and/or wall mounted fixtures.
- (4) Lights in public halls and stairways. Every public hall and stairway in every multiple dwelling containing five (5) or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four (4) dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

**(d) *Minimum requirements for the exterior and interior of structures:***

- (1) Foundation. The building's foundation, walls, piers, or other elements shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.
- (2) Exterior walls. The exterior walls shall be substantially weathertight, watertight, and shall be maintained in sound condition and good repair.
- (3) Roofs. Roofs shall be maintained in a safe manner and capable of supporting the normal load placed thereon and be substantially weathertight and watertight and be maintained in sound condition and good repair.
- (4) Chimney. The chimney shall be maintained in a safe and sound condition showing no loose brick or mortar, or may be properly closed down and sealed off.
- (5) Means of egress. Every dwelling unit shall have two (2) safe, unobstructed means of egress with minimum ceiling height of seven (7) feet leading to a safe and open space at the ground level, except where one (1) means of egress is permitted by the state building code.

- (6) Stairs. Every inside and outside stair shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound and good repair.
- (7) Storage/closet. Every dwelling unit should contain storage and/or closet facilities.
- (8) Porches and appurtenances. Every outside porch and any appurtenances thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.
- (9) Exterior windows and doors of habitable area. Every window, door (including basement or cellar door and hatchway) shall be substantially weathertight, watertight, rodent proof and shall be kept in sound working condition. Exterior doors shall have workable locks.
- (10) Basement/cellar/crawl space windows, doors and hatchways shall be kept in sound working condition and substantially rodent proof.
- (11) Doors. Every bathroom and bedroom shall have a door in good working condition, with a privacy lock on the door.
- (12) Screens. Every window or other device with opening to outdoor space, shall have screens that are tight-fitting and free of holes and shall not be nailed to sash. Dwellings containing central heating furnaces and adequate cooling equipment for mechanically ventilating the building year round are not required to have screens on doors or window openings.
- (13) Interior floors, walls, and ceilings. Every floor, wall, or ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon free from cracks and holes which permit air excessively to penetrate room. There shall be allowed as finishes no cardboard or other highly combustible material.
- (14) Structural supports. Every structural element of the dwelling unit shall be structurally sound and have no deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon.
- (15) Protective railings and handrails. Protective railings should be required on any unenclosed structure over thirty-six (36) inches above adjacent finish grade. Exterior and interior stairwells with more than four (4) risers shall have handrails located in accordance with requirements of the building code. Handrails or protective railing shall be capable of bearing normally imposed loads and be maintained in safe and sound condition.
- (16) Residential accessory structures. Garages, storage buildings and other accessory structures shall be maintained and kept in a safe and sound structural condition.

**(e) *Minimum space and use requirements:***

- (1) Required space and use in sleeping rooms. In every dwelling unit at least eighty (80) square feet of bedroom floor space shall be provided for the first occupant; at least twenty (20) square feet of additional bedroom floor space shall be provided for the second occupant; and at least thirty (30) square feet of additional bedroom floor space shall be provided for each occupant over the number of two (2) (children one (1) year of age and under shall not be counted).
- (2) Required space in dwelling unit. Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor area per additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.
- (3) Occupancy of dwelling unit below grade. Basement or cellar space shall not be used as a habitable room or dwelling unit unless meeting all specifications for habitable rooms.

**(f) *Sanitation requirements:***

- (1) Sanitation and cleanliness. Every occupant of a dwelling unit shall be responsible for maintaining it in a clean and sanitary condition, and the occupant shall avoid creating unclean, unsanitary or unsafe conditions in the common areas. Every owner of a multiple dwelling shall maintain in a clean and sanitary condition the common areas of a dwelling and premises thereof.
- (2) Garbage and rubbish storage. Every person who occupies and controls a dwelling unit shall dispose of all rubbish and garbage in a clean and sanitary manner by placing it in proper storage facilities. In

the case of single-family and two-family dwellings, the persons who occupy and control the dwellings shall be responsible for providing the approved receptacles for disposing of garbage and rubbish. In the case of multifamily housing the owner shall be responsible for providing the approved receptacles for the storage of garbage and rubbish.

- (3) Extermination. Every occupant of a single dwelling and every owner of a building containing two (2) or more dwelling units shall be responsible for the extermination of insects, rodents, or other pests within the building or premises, by a generally accepted method.
- (4) Use and operation of supplied plumbing fixtures. Every occupant of a dwelling unit shall be responsible for the exercise of reasonable care in the proper use and operation of plumbing fixtures.

Tenant to maintain dwelling unit. The tenant shall:

- (1) Keep that part of the premises which he occupies and uses as clean and safe as the conditions of the premises permit and cause no unsafe or unsanitary conditions in the common area and remainder of the premises which he uses.
- (2) Dispose of all ashes, rubbish, garbage, and other waste in a clean and safe manner.
- (3) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits.
- (4) Not deliberately or negligently destroy, deface, damage, or remove any part of the premises or knowingly permit any person to do so.

(Ord. No. 8-93, § 1, 12-20-93)

#### **Sec. 7-114. Residential buildings unfit for human habitation.**

The housing administrator may determine that a residential building is unfit for human habitation if he finds that any of the following conditions exist in such building:

- (1) Interior walls or vertical studs which list, lean, or buckle to such extent as to render the building unsafe.
- (2) Supporting members or members which show thirty-three (33) percent or more damage or deterioration, or nonsupporting, enclosing or outside walls or covering which show fifty (50) percent or more of damage or deterioration.
- (3) Floors or roofs which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (4) Such damage by fire, wind, or other causes as to render the building unsafe.
- (5) Dilapidation, decay, unsanitary conditions, or disrepair which is dangerous to the health, safety, or welfare of the occupants or other people.
- (6) Inadequate facilities for egress in case of fire or panic.
- (7) Defects significantly increasing the hazards of fire, accident, or other calamities.
- (8) Lack of adequate ventilation, light, heating, or sanitary facilities to such extent as to endanger the health, safety, or general welfare of the occupants or other residents.
- (9) Lack of proper electrical, heating or plumbing facilities required by this chapter which constitutes a health or a safety hazard.

(Ord. No. 8-93, § 1, 12-20-93)

#### **Sec. 7-115. Application of North Carolina Uniform Residential Building Code.**

Repairs, alterations and/or additions shall be performed in a manner which complies with the state residential building code.

(Ord. No. 8-93, § 1, 12-20-93)

#### **Sec. 7-116. Enforcement procedures.**

- (a) *Creation of office of housing administrator.* The housing administrator shall have such powers as may be necessary to carry out and effectuate the purposes and provisions of this article, including, without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

- (1) Inspections. The housing administrator is authorized to make or cause to be made inspections to determine the condition of residential buildings and premises in the interest of safeguarding the health and safety of the occupants of such buildings and of the general public, being guided in such examination of dwellings and buildings by the requirements set forth in this article.
- (2) Oaths, witnesses, etc. The housing administrator shall have the authority to administer oaths, affirmations, and to examine witnesses and receive evidence.
- (3) Delegation of functions. The housing administrator shall have the authority to delegate any of his functions and powers under this article to such officers and agents within his department as he may designate.

- (b) *Inspections.* The housing administrator is hereby authorized to make inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within the unincorporated and jurisdictional areas of Forsyth County in order that he may perform his duty of safeguarding the health and safety of the occupant of dwellings and of the general public. For the purpose of making such inspections, the housing administrator is hereby authorized to enter, examine, and survey at reasonable times all dwellings, dwelling units, or rooming units and premises. The owner or occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall upon being presented with proper credentials, give the housing administrator free access to such dwelling, dwelling unit, or rooming unit and its premises at all reasonable times for the purpose of such inspections, examinations and surveys. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or within any lawful order issued pursuant to the provisions of this code. If the occupant refuses admission for this purpose, admission may be obtained through the provisions of Article 4A of Chapter 15 of the General Statutes of North Carolina.
- (c) *Refusal to permit entry upon premises; misdemeanor.* It shall be unlawful for any owner or person in possession of premises on which housing is located in the unincorporated and jurisdictional areas of the county to refuse, after being presented with a warrant as issued under General Statute 15-27.2, to permit the housing administrator or his duly appointed agents to enter upon the said premises for the purposes of making examinations as authorized by this code. Violation of this section shall constitute a misdemeanor.
- (d) *Nonliability of county personnel.* No officer, agent or employee of Forsyth County shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this code. Any suit brought against any officer, employee or agent of Forsyth County as a result of any act required or permitted in the discharge of the duties under this code may be defended by the county attorney or retained counsel until the final determination of the proceedings therein.
- (e) *Abatement-hearing on charges; filing, petition and charges; investigations; time and conduct of hearing.* As provided by General Statute 160A-443, whenever a petition is filed with the housing administrator by a public authority, or by at least five (5) residents of the unincorporated or jurisdictional areas of the county, charging that any dwelling is unfit for human habitation or whenever it appears to the housing administrator (on his own motion) that any dwelling is unfit for human habitation, the housing administrator shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the housing administrator (or his designated agent) at a place within Forsyth County, therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of such complaint; that the owner and parties in interest shall be given a right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that rules

of evidence prevailing in courts of law or equity shall not be controlling in hearings before the housing administrator.

(f) *Service of order, contents.*

- (1) If, after such notice and hearing, the housing administrator determines that the dwelling under consideration is unfit for human habitation in accordance with the standards herein set forth, he shall state in writing his findings of fact in support of such determination, stating whether said building is deteriorated or dilapidated. If the housing administrator determines that the violation was proximately caused by the occupant or guest or invitee of the occupant, he shall so state in his findings of fact. The housing administrator shall issue and cause a copy of an order to be served upon all parties in interest as provided in subsection (i) below. The order shall contain a notice of right to appeal within ten (10) days to the board of adjustment.
  - a. Deteriorated dwelling. If the repair, alteration, or improvement of said dwelling can be made at a cost less than sixty-five (65) percent of the present value of the dwelling, the order shall require the owner, within a specified period of time, not exceeding ninety (90) days, to repair, alter, or improve such dwelling so as to render it safe. Such order may also direct and require the owner to vacate and close the dwelling unit until the repairs, alterations and improvements have been made and/or the unsafe and dangerous character of such dwelling has been corrected.
  - b. Dilapidated dwelling. If the repair, alteration or improvement of said dwelling, cannot be made at cost of less than sixty-five (65) percent of the present value of the dwelling, the order shall require the owner, within a specified period of time, not to exceed ninety (90) days, to either repair, alter, or improve such dwelling so as to bring it unto compliance with the standards described herein, or to demolish and remove such dwelling.
- (2) The time period specified in subsection (g)(1) a and b for making repairs, alteration or improvements may be extended (not to exceed forty-five (45) days) by the housing administrator upon written application and for just cause shown.
- (3) The housing administrator is hereby authorized to fix the reasonable value of any dwelling for the purpose of this section and such value shall be binding, unless the owner protests such value in writing to the housing administrator within ten (10) days after the receipt of an order. Upon such protest, the housing administrator shall nominate one (1) competent and disinterested person; the protesting party shall nominate one (1) competent and disinterested person; and the two (2) persons so nominated shall nominate a third competent disinterested person; and the three (3) persons so nominated shall serve as commissioners of appraisal. The said commissioners shall make their appraisal of value of the dwelling under consideration, shall return the appraisal to the housing administrator and the protesting party within ten (10) days after their appointment, and said appraisal shall be binding and conclusive for the purpose of this section. The cost of any such appraisal shall be paid by the protesting party to the housing administrator at the time of filing written protest.

(g) *Demolition of dwellings following an order of the housing administrator.* After the housing administrator has issued an order and the board of county commissioners has adopted an ordinance ordering a dwelling to be repaired or vacated and closed pursuant to the provisions of this section, and the owner has vacated and closed such dwelling and kept such dwelling vacated and closed, for a period of one (1) year pursuant to the order, the board of county commissioners may find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this state; then in such circumstances, after the expiration of such



one-year period, the board of commissioners may enact an ordinance and serve such ordinance upon the owner, requiring that the owner either:

- (1) Repair or demolish and remove the dwelling within ninety (90) days, if the repair necessary to render the dwelling fit for human habitation would cost less than fifty (50) percent of the present value of the dwelling; or
- (2) Demolish and remove the dwelling within ninety (90) days if the repair necessary to render the dwelling fit for human habitation would cost in excess of fifty (50) percent of the present value of the dwelling.

Such order shall be recorded in the office of the register of deeds of Forsyth County and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this order within the time fixed by such order, then the housing administrator shall cause such dwelling to be repaired or demolished and removed pursuant to said order.

- (h) *Procedure for repairing, closing or demolishing certain abandoned structures.* In addition to the exercise of police power authorized herein with respect to dwellings, the housing administrator on behalf of the county, shall cause to be repaired, closed or demolished any abandoned structure which the board of county commissioners finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. The repair, closing or demolition of such structures shall be pursuant to the same provisions and procedures as are prescribed in the Forsyth County Minimum Code, for the repair, closing or demolition of dwelling, dwellings, found to be unfit for human habitation.
- (i) *Methods of service.* As provided in G.S. 160A-445, complaints or orders issued by the housing administrator and/or the board of county commissioners shall be served upon persons either personally or by registered or certified mail; but if the whereabouts of such persons are unknown and the same cannot be ascertained by the housing administrator in the exercise of reasonable diligence and the housing administrator shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made by publishing the same at least once, no less than ten (10) days nor more than thirty (30) days prior to the hearing, in a newspaper of general circulation in the county. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order.
- (j) *Separability.* If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.
- (k) *Appeals, zoning board of adjustment.* The zoning board of adjustment shall hear and determine appeals from any decision or order of the housing administrator pursuant to subsection (g) above.
- (l) *Appeals procedure.* An appeal from any decision or order of the housing administrator may be taken by any person aggrieved thereby or by any officer or board of commissioners of the county. Any appeal from the housing administrator shall be taken within ten (10) days from the rendering of the decision or issuance of the order by filing in writing with the housing administrator a notice of appeal which must specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the housing administrator shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the decision appealed from was made. The board of adjustment shall affix a reasonable time for hearing appeals, shall give notice to the parties and shall render its decision within a reasonable time. Any party may appear in person or by a managing agent, or by attorney. The board may reverse or affirm, wholly or in part, or may modify the decision or order appealed from, and may make any decision and order that in its opinion, ought to be made in the matter and to that end it shall have all the powers of the housing administrator, but the concurring vote of four (4) members of the board shall be necessary to reverse or modify any decision or order of the housing administrator. The board shall have power also when passing upon

appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Every decision of the board shall be subject to review by proceeding in the nature of certiorari instituted in the Superior Court of Forsyth County within fifteen (15) days of the decision of the board of adjustment, but not otherwise.

(m) *Enforcement.*

- (1) If the owner of a dwelling found to be deteriorated fails to comply with an order to repair, or improve the dwelling, unless an appeal is taken from such order in accordance with subsections (k) and (l), the housing administrator may:
  - a. Secure the issuance of a warrant charging such owner with a violation of the standards of fitness established by section 7-114 of this code.
  - b. Cause such dwelling to be repaired, altered, or improved, and pending such repairs, alterations, or improvements, may order such dwelling vacated and closed; and
  - c. Cause to be posted on the main entrance of any dwelling so closed, a placard with the following words:

"THIS DWELLING IS UNFIT FOR HUMAN HABITATION; THE USE OR OCCUPATION OF THIS DWELLING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL."
- (2) If the owner of a dwelling found to be dilapidated fails to comply with an order to vacate and close, or fails to remove or demolish the dwelling, unless an appeal is taken from such order in accordance with subsections (k) and (l) the housing administrator may:
  - a. Secure the issuance of a warrant charging such owner with violation of this code.
  - b. Order such dwelling to be vacated and closed and removed or demolished; and
  - c. Cause to be posted on the main entrance of any dwelling so closed a placard with the following words:

"THIS DWELLING IS UNFIT FOR HUMAN HABITATION; THE USE OR OCCUPATION OF THIS DWELLING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL."
- (3) The housing administrator shall not repair, alter, improve, or demolish, and remove any dwelling or perform any other duties set forth in subsections (1) and (2) above, until the board of commissioners shall have ordered the housing administrator to proceed to effectuate the purpose of this code with respect to the particular property or properties which the housing administrator shall have found to be unfit for human habitation or dangerous and which property or properties shall be recorded in the office of the register of deeds of Forsyth County and shall be indexed in the name of the property owner in the grantor index.
- (4) The amount of the cost of such repairs, alterations, or improvements or vacating and closing, or demolition and removal by the housing administrator shall be a lien against the real property upon which such cost was incurred; which lien shall be filed, have the same priority and be collected as provided by Article 10 of Chapter 160A of the North Carolina General Statutes. If the dwelling is demolished and removed by the housing administrator, he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the demolition and removal and any balance remaining shall be deposited in the office of the clerk of superior court by the housing administrator, shall be secured in such manner as may be directed by such court, and entitled thereto by final decree of such court (in a special proceeding brought before the clerk of superior court for said purpose).
- (5) If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the county to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. An action to

remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the governing body has ordered the public officer to proceed to exercise his duties to vacate and close or remove and demolish the dwelling under Subsection M.

(n) *Violations and penalties.*

- (1) It shall be unlawful for the owner of any dwelling to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and demolish and remove the same upon order of the housing administrator duly made and serve as herein provided, within the time specified in such order, and each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.
- (2) When the housing administrator finds that a dwelling is unfit for human habitation within the meaning of this article and has notified the owner to such effect and the time limit set by the housing administrator (or in the event of appeal, the time limit set by the board of adjustment) for the correction of defects or vacating same has expired, no person shall receive rentals, offers for rent, or occupy such dwelling unfit as a human habitation, and each day such offense continues shall be deemed a separate offense. Any person violating these provisions shall be guilty of a class 3 misdemeanor, and upon conviction such offenders shall be punished by a fine of not more than five hundred dollars (\$500.00) for each separate offense, as provided by North Carolina General Statute 14-4.
- (3) An owner who fails to comply with an order to repair, alter or improve any occupied dwelling determined unfit for human habitation pursuant to the provisions contained in subsection (f) of this section shall also be subject to a civil penalty of fifty dollars (\$50.00) for the first day following the expiration of the time period specified in the order for repair, alteration or improvement. A penalty of ten dollars (\$10.00) per day shall be imposed for each subsequent day that the dwelling remains unfit in violation of the order. If a person fails to pay the civil penalty within ten (10) days after being notified of the assessment of a civil penalty, the county attorney is authorized to institute a civil action in the name of the county to recover the penalty together with all costs in the general court of justice in the nature of a suit to collect a debt.

(o) *Violation of article.* If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this article, or any valid order or decision of the housing administrator or the board of adjustment made pursuant to this article or, if payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to the county attorney for institution of a civil action in the name of the county in the appropriate division of the general courts of justice for recovery of the penalty.

(p) *Nonconforming provision.* This article shall be construed in accordance with Part 6 of Article 19 of Chapter 160A of the North Carolina General Statutes which shall control in event of conflict.

(q) *Timing of enforcement.* This article shall not be enforced by the county until July 1, 1994.

(Ord. No. 2-95, § 1, 7-10-95; Ord. No. 3-95, §§ 1, 2, 7-10-95)